



Date of decision: 05/05/98

ORAL JUDGEMENT

(Per : Balakrishnan, J.)

Rule. Mr. Jayant Patel, learned Standing Counsel waives service thereof for the respondents.

At the request of the learned Counsel appearing for the parties, the petition is heard today.

The petitioners, in these petitions, have filed appeals before 4th respondent and also moved stay applications. This Court by a common order passed on 23.2.1998 had directed the 4th respondent to dispose of stay applications pending before him within a period of six weeks from the date of the said order. Meanwhile, the department by proceedings dated 5.2.1998 had attached goods worth Rs.3,41,00,000/-. In our order dated 23.2.1998 we had directed that pending decision on the stay applications, there shall not be any further coercive steps. Though the petitioners wanted release of the goods on the ground that they were of perishable nature and delay in disposing of the matters will make these goods unfit for consumption, we did not grant prayer and directed the 4th respondent to dispose of the stay applications on or before 6th April, 1998.

Now, it is submitted by the petitioners' learned Counsel that inspite of specific direction passed by this Court, 4th respondent has not cared to dispose of the pending stay applications. No application has also been moved on behalf of the 4th respondent to extend the time for disposing of the stay applications. Mr. Jayant Patel, learned Standing Counsel for the respondents had made submission for extension of time and it is pointed out that Office of the 4th respondent is shifted from Surat to Bombay. It was, therefore, in such exigency that fact could not have been brought to the notice of the Court. The conduct of the 4th respondent in not complying with the order is seriously viewed, as it amounts to contempt of Court prima-facie. However, we do not propose to take any action against him in view of the explanation submitted by Mr. Jayant Patel.

As noted earlier, the goods are perishable in nature. If the stay applications are not disposed of in

time, the goods attached by the authority may not be of any use. Counsel for the respondents submitted that the petitioners may be directed to furnish security. Having regard to the facts and circumstances of the case, we do not think that there shall be any direction to furnish security by the petitioners. It is made clear that the department would be at liberty to take action on the basis of the order to be passed on the stay applications. But, there shall not be further coercive action, till final disposal of stay application. In the result, we lift the order of attachment passed by respondent no.3 as evident from letter dated 5.2.1998.

Rule is made absolute to the extent indicated hereinabove, with no order as to costs.

The petitioners would be at liberty to serve copy of the order to the respondent no.3 for necessary compliance.

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